



Fair trials: MEPs beef up draft EU law on presumption of innocence

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Draft EU rules to ensure that the right to be presumed innocent until proven guilty is fully respected in member states were approved by the Civil Liberties Committee on Tuesday. MEPs inserted amendments to prevent statements by public authorities that might suggest a suspect is guilty before a final conviction, ensure that the burden of proof stays with the prosecution and guarantee the rights to remain silent, not to incriminate oneself and to be present at trial.

“The presumption of innocence is a fundamental right and above all it is an essential principle if we are to prevent arbitrary judgments and abuses of power in criminal proceedings. This principle seeks to guarantee the right to a fair trial”, said rapporteur Nathalie Griesbeck (ALDE, FR) in a committee debate.

“The proposal for a directive is made all the more important by the erosion of the principle of the presumption of innocence that is currently being seen in several EU member states”, she added.

Banning public authority statements that presume guilt

Public authorities must refrain from making public statements referring to suspects or accused persons “as if they were guilty”, before a final conviction or before or after a final acquittal, say MEPs.

The amended rules would therefore require EU countries to forbid their public authorities from disclosing information, “including in interviews and in communications issued through or in conjunction with the media”, or from leaking information to the press “which could create prejudice or bias against the suspect or accused person before final conviction in court”, explains the committee. EU countries should also promote the adoption of codes of ethical practice in cooperation with the media, it adds.

“Where applicable”, legal persons, too, should be covered by these EU rules, MEPs say. This was not envisaged in the initial proposal.

Reversing the burden of proof and compulsion are unacceptable

Allowing presumptions that shift the burden of proof from the prosecution to suspects or accused persons is “unacceptable” say MEPs, who deleted this possibility from the Commission’s initial text. The burden of proof must rest with the prosecution and “any doubt always benefits the suspect or accused persons”, they insist.

MEPs also deleted from the proposal a provision that would have made it possible in limited cases to “compel” a suspect or accused person to provide information relating to charges against them. .

Silence must not be used against suspects

Suspects or accused persons should not be considered guilty simply because they exercise their right to remain silent, MEPs underline. The exercise of this right, as well as the right not to incriminate oneself and not to cooperate, “must never be considered as a corroboration of the facts”, they say.

Press release

In other additions to the Commission's text, MEPs stress that any evidence obtained in violation of these rights or by torture shall be inadmissible and that cases in which judgments may be delivered *in absentia* must be kept to a strict minimum.

Next steps

The committee vote gives the rapporteur a mandate to start negotiations with the Council with a view to reaching an agreement on the proposed directive. Three-way talks between the Parliament, the Council and the Commission ("trilogues") should start soon.

Result of the vote on the mandate to open negotiations with the Council: 43 votes in favour, 6 against and 1 abstention

In the chair: Claude Moraes (S&D, UK)

Facts

- This draft directive is part of a package of proposals to further strengthen procedural rights for citizens in criminal proceedings, which includes one on safeguards for children, voted in the committee on 5 February, and another on legal aid, to be voted later. The previous Parliament passed three other EU laws that are part of a "roadmap" for strengthening procedural rights: a directive on the right to interpretation and translation, a directive on the right to information and a directive on the right of access to a lawyer.

Useful information:

- Legal situation in the EU member states regarding presumption of innocence (annex V of the impact assessment): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013SC0478&from=EN>
- Nathalie Griesbeck (ALDE, FR): <http://www.europarl.europa.eu/meps/en/28208.html>
- Procedure file: [http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013/0407\(COD\)&l=EN](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013/0407(COD)&l=EN)
- Committee on Civil Liberties, Justice and Home Affairs: <http://www.europarl.europa.eu/committees/en/libe/home.html>
- Press release on safeguards for children (5.02.2015): <http://www.europarl.europa.eu/news/en/news-room/content/20150203IPR18511/html/Fair-trials-for-children-MEPs-amend-rules-to-establish-strong-EU-wide-standards>

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